IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 136 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SINGARWA GRAM PANCHAYAT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 136 of 1994

MR HARIN P RAVAL for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-5

MR NM KAPADIA for Respondent No. 6-7

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 07/04/2004

ORAL JUDGEMENT

The petitioner - Singarwa Gram Panchayat has in

this petition, has challenged the decision of the District Collector, Ahmedabad, dated 16th August 1993 whereby the Collector has confirmed his earlier order dated 16th July 1992 after hearing the petitioner pursuant to the order passed by this Court dated 10th March 1993.

2. It is the case of the petitioner that the petitioner is a Panchayat duly constituted under the provisions of the Gujarat Panchayats Act (for short, 'the Act'). The Gaucher land bearing Survey No.306 was vested in the Panchayat by the State Government several years back and since then, the ownership of the same is with the petitioner. As per the provisions of Section 96 of the Act, the Government may vest certain lands in the Panchayat, open sites, waste, vacant or grazing lands or public roads, streets, bridges, ditches or any other property in the Gram or Nagar Panchayat which is originally vesting in the Government. Sub-section (4) of Section 96 provides that it would be lawful for the State Government to resume at any time such site or land, which is vesting in a Panchayat, if it is required for any public purpose and it is further provided that in case of any improvement of such site or land made by the Panchayat or any other person, as the case may be, shall be entitled to compensation equal to the value of such improvement and such value shall be determined in accordance with the provisions of the Land Acquisition Act, 1894.

2.1 According to the petitioner, respondent No.2 District Collector, while exercising powers under Section 96(4) of the Act passed an order dated 16.7.1992 without hearing the petitioner Panchayat or even without giving an opportunity of being heard to the petitioner and resumed 500 sq.mtrs. of land from the petitioner for the purpose of allotting the same to the respondent No.5 for construction of a Police Chowky which was pursuant to the proposal made in this behalf of respondent No.4 and the said land was granted for the said purpose on the following three conditions:

(i) That the land should be put to the same use for which the land is granted;

(ii) That permission of the Competent authority should be obtained and plan of the proposed construction should be approved before proceeding to construct; and

(iii) Building permission to construct building should be obtained from Singarwa Gram Panchayat, i.e. the petitioner above named before proceeding to construct.

3. Learned Advocate for the petitioner has contended that the Collector has not considered the fact that the land on which the Police Chowky was proposed to be constructed, is not ideal in view of the fact that the rain water is flowing through the same and it is likely to damage the property. Learned Advocate has further submitted that the Collector has not taken into consideration the expenditure which was incurred by the Panchayat on the disputed land, though he has considered the contention raised by the petitioner that there are temples and other construction namely, Primary Health Centre and religious temples and that damage to the property is prima facie not acceptable. The Collector has also rejected the contention that the Panchayat has spent some amount in view of the fact that no evidence was produced before the Collector and therefore, no compensation was awarded to the Panchayat. Apart from that, the Collector has observed in his order that in the disputed land from 11th August 1992, five Police SRP soldiers and two Constables are there which was continued and the monthly expenditure of Rs.22,500/- was being incurred and the plan from AUDA is approved from 12th October 1992 and further that if the Police Chowky is established, it will cater to the needs of Bhulaladi, Kathwada and Singarwa villages. The Collector has also considered that the nearest Police Station is 4 km. away and therefore, considering all these facts, he has rejected the contention of the petitioner Panchayat and ultimately confirmed the order dated 16th July 1992 at Annexure.A to the petition.

4. In my view, prima facie, the order of the Collector is just and proper because the competent authority has found that establishment of Police Chowky is in public interest. Therefore, the order of the Collector does not warrant interference by this Court. Hence, the petition is dismissed. Rule is discharged, with no order as to costs.

(K.S. Jhaveri, J.)

Sreeram.